



Senate

General Assembly

File No. 451

February Session, 2006

Substitute Senate Bill No. 593

Senate, April 10, 2006

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE APPLICABILITY OF OFFERS OF JUDGMENT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (*Effective from passage*) Sections 52-192a to 52-195,
- 2 inclusive, of the general statutes, revision of 1958, revised to January 1,
- 3 2005, shall be applicable to any cause of action accruing prior to
- 4 October 1, 2005.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	New section
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JUD Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill clarifies that the offer of judgment provisions in effect prior to the effective date of public act 05-275 are applicable to actions accruing before October 1, 2005. There is no associated fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 593*****AN ACT CONCERNING THE APPLICABILITY OF OFFERS OF JUDGMENT.*****SUMMARY:**

This bill specifies that the offer of judgment law that was replaced by the offer of compromise law in 2005 applies to any cause of action accruing before October 1, 2005. The offer of compromise law applies to any cause of action that accrues on or after October 1, 2005. In general, a cause of action accrues when the right to file a law suit on a claim is complete.

PA 05-275, which became effective October 1, 2005, changed the “offer of judgment” law in several ways, including changing the terminology to “offer of compromise” and ending the process in a withdrawal of the lawsuit after payment, instead of after a judgment against the defendant.

Also PA 05-275 reduces the interest rate the court may award with respect to an offer of compromise for cases that accrue after September 30, 2005, from 12% to 8%, and established some additional requirements for such cases.

EFFECTIVE DATE: Upon passage

BACKGROUND***Contract Cases or Cases Seeking Money Judgments***

By law, in any contract case or a case seeking money damages, plaintiffs and defendants can use a statutory procedure to offer to settle the case for a specified amount. This was called an “offer of judgment”; the 2005 act changed the term to “offer of compromise.”

Both allow the plaintiff to file an offer with the court clerk up to 30 days before trial. After trial, the court must examine the record to determine whether the plaintiff made an offer that the defendant failed to accept. Under the prior offer of judgment law, if it determined that the plaintiff recovered an amount equal to or greater than the sum stated in his offer of judgment, the court had to add 12% annual interest. A defendant had 60 days to file an acceptance of the offer with the court clerk. If he notified the clerk that he accepted the offer, the clerk had to enter judgment.

The 2005 act reduces the interest the court must add from 12% to 8% for claims that accrue after September 30, 2005. It prohibits the plaintiff from making the offer for at least 180 days after service of process on the defendant. It gives the defendant 30, instead of 60, days to accept.

Under the act, if the defendant accepts the offer, he must file his acceptance with the court clerk. After the plaintiff receives the amount specified in the offer from the defendant, he must file a withdrawal of the lawsuit with the clerk, which the clerk must record. Thus, no judgment is entered against the defendant.

Under the old law and the 2005 act, defendants may also file an offer with the court clerk up to 30 days before trial. The plaintiff has 10 days after being notified of the defendant's offer to accept it. If the plaintiff recovers less than the offer of judgment, he must pay the defendant's costs accruing after he received the offer, including reasonable attorney's fees up to \$350.

The 2005 act gives the plaintiff 60 days to accept the defendant's offer, instead of 10. After the plaintiff files an acceptance of an offer to compromise with the clerk and receives the amount specified in the offer, he must file a withdrawal of the lawsuit with the clerk, who must record.

Medical Malpractice Cases

The 2005 act requires that, in medical malpractice cases, a plaintiff's offer of compromise must specify all damages known to him or his

attorney when the offer is made. At least 60 days before filing the offer, the plaintiff or his attorney must provide the defendant or his attorney with an authorization to disclose medical records that meets federal privacy provisions under the 1996 federal Health Insurance Portability and Accountability Act (HIPAA), and disclose all expert witnesses who will testify about the prevailing professional standard of care. The plaintiff must file with the court a certification that he has provided each defendant or his attorney with all supporting documentation.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 2 (03/27/2006)